REMARKS

Claim 1 has been amended to delete the term about in relation to the 5% sterol ester used in the composition of the invention.

Before discussing the rejection over the prior art, Applicants deem it prudent to set forth what they consider to be their invention. As claimed, the invention is a lanolin-free lanolin substitute. The composition comprises:

A) sterol fatty acid ester, 5% to 95% by weight;

B) polyglyceryl di-polyhydroxy fatty acid ester, 1% to 20% by weight;

C) polyglyceryl di-fatty acid ester, 1% to 20% by weight;

D) glyceryl fatty acid ester, 0.25 % to 10% by weight;

E) 1% to 80% by weight of an additive containing a mixture of (i) vegetable oil, (ii) hydrogenated vegetable oil; and (iii) non-petroleum derived wax.

The composition does not contain added water and can contain optional ingredients such as

F) microcrystalline wax;

G) polyethyleneglycol plant sterol; and

H) petrolatum/mineral oil.

Applicants respectfully submit that the composition of the present invention is neither taught nor suggested by the prior art references cited by the Examiner.

Claims 1-18 stand rejected under 35 USC 103(a) as unpatentable over Kropf et al. (US 6,316,030) and Scheuffgen (US 4,868,220). Applicants understand that the

references are applied separately and not in combination.

The Examiner states:

> "Kropf teaches a composition containing sterols, nanoscale sterol esters and mixtures thereof. See abstract. Furthermore, it teaches significant increase in absorption of the sterols and sterol esters that include large number of derivatives of said compounds, and can be obtained by animal and plant sources, see lines 56-67 in column 1 and 1-38 in column 2. The reference also teaches composition of sterols and sterol esters, which may vary from 0.1 to 5% by weight, see column 3, lines 25-31. The preparation contain at least one suitable annionic surfactants such as glycerol mono esters and diesters, sorbitan monoesters and diesters, polyalkylene glycols, mixed esters, polyglycerol poly-hydroxy stearate and emulsifiers. See lines 11-67 in column 4 and lines 1-56 in column 5. The formulations may contain suitable oils such as mineral oil, vegetable oil, see examples and claims. In addition, use of emulsifiers are taught."

Applicants respectfully submit that the Examiner has completely mischaracterized the teachings of Kropf et al. Kropf et al. is directed to preparation of nanoscale sterol and sterol esters coated with a protective colloid. The nanoscale sterols and sterol esters, coated with a protective colloid, are present in the composition in a range of from about 0.1 to 5% by weight including the protective colloid which can be as much as 20% of the sterol or sterol ester composition.

Kropf et al. discloses many formulations which are useful as sun protecting creams, sun protecting lotions, foam baths, soft cream, molsturizing emulsion and night cream. The compositions are distinguished in that they contain relatively small quantities of the nanoscale sterol or sterol esters and major amounts of water. In view of the major amounts of water in the compositions, they would not be useful for a

lanolin-free lanolin substitute. As is well understood in the art, lanolin is a solid composition which does not contain large amounts of water.

Kropf et al. can be further distinguished from the present invention in that the composition contains from 0.1 to 5% by weight of the nanoscale particles coated with a protective colloid. As the specification teaches the nanoscale particles contain substantial amounts of a protective colloid to maintain the particles in the free state and to prevent agglomeration. Applicants therefore respectfully submit that the maximum amount of nanoscale sterol or sterol ester particles falls below the minimum amount of sterol fatty acid ester useful in the practice of the present invention in view of the presence of the protective colloid. As set forth in the claims, the composition of the present invention contains from 5 to 95% by weight of sterol fatty acid esters. In addition, the composition of the present invention does not contain any added water since the composition mimics the form and function of a solid fatty material. Applicants respectfully submit that Kropf et al. neither teaches nor suggests the present invention. Applicants submit that the rejection is based on hindsight reconstruction of Applicants' invention since Kropf et al. neither teaches nor suggests a composition which would mimic the properties of lanolin and would be useful for addition to formulations such as shown in Kropf et al. However, Kropf et al. neither teaches nor suggests a lanolin-free lanolin substitute.

Since Kropf et al. is directed to nanoscale sterol and sterol ester products coated with a protective colloid which Applicants submit would not be useful alone as a lanolin-

free lanolin substitute, Applicants submit that the rejection under 35 USC 103(a) over Kropf et al. is untenable and respectfully request that the rejection be reconsidered and withdrawn.

Scheuffgen alone or in combination with Kropf et al. would neither teach nor suggest the present invention. Scheuffgen is directed to a lanolin-free lanolin substitute. The function of the Scheuffgen composition is similar to the function of the composition of the present invention. However, the composition disclosed in Scheuffgen is substantially different from the composition of the present invention and would not lead one skilled in the art to the composition of the present invention.

Instead of the major amounts of sterol fatty acid esters present in the composition of the present invention, Scheuffgen requires that a mixed ester of a di-fatty acid pentaerythritol and a di-fatty alcohol citrate. These materials are present at from 40 to 60% by weight of the lanolin-free lanolin substitute composition of Scheuffgen. Scheuffgen contains major amounts of the mixed pentaerythritol-citrate acid ester along with major amounts of glycerol fatty acid esters. The composition contains from 3% to 10% by weight of an adduct of 3-7 moles of EO to a vegetable sterol. The only component which the Scheuffgen composition shares with the composition of the present invention is the glycerol fatty acid esters. However, the composition of the present invention contains from 0.25% to 10% by weight of glycerol fatty acid ester wherein Scheuffgen contains from 28 to 55% by weight of the glycerol

fatty acid ester. Applicants respectfully submit that Scheuffgen would neither teach nor suggest the present invention.

If the Examiner intends to base the rejection on the combination of Kropf et al. in view of Scheuffgen, Applicants respectfully submit that Scheuffgen does not cure the deficiencies in Kropf et al. The Kropf et al. composition contains only minor amounts of the nanoscale sterol esters and the protective colloid and contains major amounts of water and can contain mineral oil. Scheuffgen does not contain the sterol fatty acid esters and instead contains major amounts of a mixed di-fatty acid pentaerythritol and di-fatty alcohol citrate esters. The combination of esters are present in a 40 to 60% by weight of the composition. The other major component in the Scheuffgen composition are glycerol fatty acid esters in the range of 28 to 55% by weight. The Scheuffgen composition does not contain the polyglycerol di-polyhydroxy fatty acid esters and the polyglycerol di-fatty acid esters. Applicants respectfully submit that Scheuffgen alone or in combination with Kropf et al. would neither teach nor suggest the present invention.

Applicants herewith present a Table showing the major constituents of the composition of the present invention, the Scheuffgen composition and the Kropf et al. composition. Applicants submit that it would be apparent to one skilled in the art that the compositions are substantially different and Kropf et al. and Scheuffgen whether considered alone or in combination would not lead one skilled in the art to the composition of the present invention.

TABLE

	Component	Present Invention	Scheuffgen	Kropf et al.
1.	Mixed Ester di-fatty acid ester pentaerythritol and di-fatty alcohol citrate esters	0	40% to 60%	0
2.	Adduct of 3-7 mole EO to vegetable sterol	0	3% to 10%	0
3.	Nanoscale sterol ester and protective colloid		0	0.1 to 5%
4.	Sterol fatty acid ester	5% to 95%	0	0
5.	Polyglycerol di-polyhydroxy fatty acid ester	1% to 20%	0	2% to 5%
6.	Polyglycerol di-fatty acid ester	1% to 20%	0	1% to 4%
7.	Glycerol fatty acid ester	0.25% to 10%	28 to 55%	2% to 4%
8.	Additive containing a mixture of (i) vegetable oil, (ii) hydrogenated vegetable oil and (iii) non-petroleum derived wax	1% to 80%	0	0
9.	Mineral Oil			1% to 4%
10.	Water	0	0	30% to 80%

Applicants submit that the Examiner has apparently lost the concept of the present invention which is directed to a lanolin-free lanolin substitute. The only composition anywhere remotely related to the composition of the present invention is Scheuffgen (lanolin-free substitute). However, the Scheuffgen composition contains materials which are foreign to the composition of the present invention and these materials are present in major amounts which account for almost the entire composition. Applicants respectfully submit that one skilled in the art would not substitute the sterol fatty acid esters for the mixed di-fatty acid pentaerythritol and di-

fatty alcohol citrate esters. Applicants submit that the rejection is based on hindsight reconstruction of Applicants' invention utilizing Applicants' own application to form the rejection. Applicants respectfully submit that this type of rejection is improper and respectfully request that the rejection be reconsidered and withdrawn.

Claims 13-18 are clearly patentable over Kropf et al. and Scheuffgen. Neither Kropf et al. or Scheuffgen teach or suggest a composition comprising a polyol ester and a petrolatum. Both of the references which the rejection is based contain materials quite different from the sorbitan and alkyl glycoside esters useful in the practice of the composition of claims 13-18 and in addition do not contain petrolatum in an amount in relation to the ester of from 19:1 to 4:1. Applicants submit that the rejection is untenable.

Applicants submit that the Examiner has not built a prima facie case for obviousness for any of claims 1-18 and therefore the rejection must fail.

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In view of the amendments to the claims and the above discussion, Applicants respectfully request reconsideration and allowance of the application.

Respectfully submitted,

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